

State of South Dakota

EIGHTIETH SESSION LEGISLATIVE ASSEMBLY, 2005

400L0781

SENATE BILL NO. 219

Introduced by: The Committee on Commerce at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to provide for the licensing of motorcycle converters.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 32-6B-1 be amended to read as follows:

4 32-6B-1. Terms as used in this chapter, unless the context otherwise requires, mean:

5 (1) "Administrator," the administrator of the dealer licensing and inspection program of
6 the Department of Revenue and Regulation ;

7 (2) "Auctioneer," a person who presides over a public auction where following an initial
8 starting price, bids are taken from two or more people until a final bid or price is
9 established for a motor vehicle;

10 (2A) "Authorized emergency vehicle," any vehicle of a fire department and any ambulance
11 and emergency vehicle of a municipal department or public service corporation that
12 are designated or authorized by the Department of Public Safety;

13 (3) "Broker," a person who, for a fee, commission, or other valuable consideration,
14 arranges or offers to arrange a transaction involving the sale or exchange of vehicles,
15 and who is not:

16 (a) A dealer or a bona fide agent or employee of a dealer;



1 (b) A representative or a bona fide agent or employee of a manufacturer; or

2 (c) At any point in the transaction the bona fide owner of the vehicle involved in
3 the transactions;

4 (4) "Community," the franchisee's area of responsibility as stipulated in the franchise. A
5 community has a minimum radius of ten miles around an existing dealership;

6 (5) ~~"Converter," a person who modifies or installs on previously assembled chassis~~
7 ~~special bodies or equipment which, when completed, form an integral part of the~~
8 ~~vehicle and which constitutes a major manufacturing alteration and who may issue~~
9 ~~a supplemental or secondary statement of origin; "Converted motorcycle," a~~
10 ~~previously assembled motorcycle which has been modified or upon which has been~~
11 ~~installed a special body or equipment that forms an integral part of the converted~~
12 ~~motorcycle and that constitutes a major manufacturing alteration;~~

13 (6) "Department," the Department of Revenue and Regulation ;

14 (6A) "Emergency vehicle dealer," any person who converts or manufacturers authorized
15 emergency vehicles and who, for commission or with intent to make a profit or gain,
16 sells, exchanges, rents with option to purchase, offers, or attempts to negotiate a sale
17 or exchange of new, or new and used authorized emergency vehicles, or who is
18 engaged wholly or in part in the business of selling new, or new and used authorized
19 emergency vehicles;

20 (7) "Franchise," a written agreement or contract between a franchisor and franchisee
21 which fixes the legal rights and liabilities of the parties to such agreement or contract;

22 (8) "Franchisee," person who receives vehicles from a franchisor under a franchise and
23 who offers and sells the vehicles to the general public;

24 (9) "Franchisor," any person engaged in the manufacturing or distribution of vehicles

1 including any person who acts for the franchisor;

2 (10) "Manufacturer," a person who manufactures or assembles vehicles, including motor
3 homes, and who issues the original or first manufacturer's statement of origin. The
4 term, manufacturer, includes a central or principal sales corporation through which
5 it distributes its products to franchised dealers;

6 (10A) "Motorcycle converter," a person who modifies or installs on a previously assembled
7 motorcycle chassis a special body or equipment that, when completed, forms an
8 integral part of the motorcycle and that constitutes a major manufacturing alteration;

9 (11) "Motor home," a motor vehicle designed as an integral unit to be used as a
10 conveyance upon the public highways and for use as a temporary or recreational
11 dwelling and having at least four of the following permanently installed systems:

12 (a) Cooking facilities;

13 (b) Ice box or mechanical refrigerator;

14 (c) Potable water supply including plumbing and a sink with faucet either
15 self-contained or with connections for an external source, or both;

16 (d) Self-contained toilet connected to a plumbing system with connection for
17 external water disposal;

18 (e) Heating or air conditioning system, or both, separate from the vehicle engine
19 or the vehicle electrical system;

20 (f) A one hundred ten --one hundred fifteen volt ~~(110-115)~~ alternating current
21 electrical system separate from the vehicle engine electrical system either with
22 its own power supply or with a connection for an external source, or both, or
23 a liquified petroleum system and supply;

24 (12) "Public auction," a business that is open to the public where South Dakota titled

1 motor vehicles are consigned, displayed, and auctioned to the highest bidder by an
2 auctioneer;

3 (13) "Sell-it-yourself lot," any space provided to a person for a fee to display that person's
4 boat or vehicle for sale.

5 (14) "Semitrailer," any vehicle of the trailer type, equipped with a kingpin assembly,
6 designed and used in conjunction with a fifth wheel connecting device on a motor
7 vehicle and constructed so that some part of its weight and that of its load rests upon
8 or is carried by another vehicle;

9 (15) "Supplemental lot," a physically separate location owned and maintained by a
10 licensed dealer within the same county as the principal place of business;

11 (16) "Temporary special events lot," a location other than the principal place of business,
12 supplemental lot, or temporary supplemental lot where a licensed trailer dealer, a
13 licensed used car dealer selling only truck tractors, travel trailers, or motor homes,
14 or any combination thereof, or a licensed vehicle dealer selling only truck tractors,
15 travel trailers, or motor homes, or any combination thereof, may conduct business for
16 a period of time not to exceed ten consecutive days for a specific purpose such as
17 fairs, auctions, shopping center sales, or tent sales. A temporary special events lot
18 shall meet all local zoning and building codes for the type of business being
19 conducted;

20 (17) "Temporary supplemental lot," a location other than the principal place of business
21 or supplemental lot but within the same county as the principal place of business, or
22 within the corporate limits of a municipality which overlaps boundaries of a county,
23 or in an adjoining county, if the adjoining county has no licensed vehicle dealer
24 selling automobiles, pick-ups, or passenger vans and the temporary supplemental lot

1 is no more than ten miles from the principal place of business, where a licensed
2 vehicle dealer or a licensed used vehicle dealer may conduct business for a period of
3 time not to exceed ten consecutive days for a specific purpose such as fairs, auto
4 shows, auctions, shopping center promotions, or tent sales. A temporary
5 supplemental lot shall meet all local zoning and building codes for the type of
6 business being conducted. If a licensed vehicle dealer establishes a temporary
7 supplemental lot in a county with a licensed used vehicle dealer, a licensed used
8 vehicle dealer may establish a temporary supplemental lot in a county with a licensed
9 vehicle dealer;

10 (18) "Trailer," any vehicle without motive power designed to be coupled to or drawn by
11 a motor vehicle and constructed so that no part of its weight or that of its load rests
12 upon the towing vehicle;

13 (19) "Trailer dealer," any person who, for commission or with intent to make a profit or
14 gain, sells, exchanges, rents with option to purchase, offers or attempts to negotiate
15 a sale or exchange of new or used trailers, semitrailers or travel trailers or who is
16 engaged in the business of selling new or used trailers, semitrailers or travel trailers
17 whether or not such vehicles are owned by such person;

18 (20) "Travel trailer," any trailer or semitrailer which provides as its primary purpose
19 adequate, comfortable, temporary living quarters while on pleasure excursions or
20 while touring for business, professional, educational or recreational purposes;

21 (21) "Used vehicle dealer," any person who, for commission or with intent to make a
22 profit or gain sells, exchanges, rents with option to purchase, offers or attempts to
23 negotiate a sale or exchange of used vehicles or who is engaged in the business of
24 selling used vehicles; or any person who sells five or more used vehicles or offers for

1 sale five or more used vehicles at the same address or telephone number in any one
2 calendar year;

3 (22) "Vehicle," any new or used automobile, truck, truck tractor, motorcycle, motor home,
4 trailer, semitrailer or travel trailer of the type and kind required to be titled and
5 registered under chapters 32-3 and 32-5, except manufactured homes, mobile homes,
6 mopeds or snowmobiles;

7 (23) "Vehicle dealer," any person who, for commission or with intent to make a profit or
8 gain, sells, exchanges, rents with option to purchase, offers or attempts to negotiate
9 a sale or exchange of new, or new and used vehicles, or who is engaged wholly or in
10 part in the business of selling new, or new and used vehicles.

11 Section 2. That § 32-6B-4 be amended to read as follows:

12 32-6B-4. No person may engage in the business, either exclusively or in addition to any
13 other occupation, of selling, or may offer to sell, display, or advertise the sale of new or used
14 vehicles, without a license as provided in § 32-6B-12 or section 4 of this Act. A violation of this
15 section is a Class 2 misdemeanor.

16 Section 3. That subdivision (5) of § 32-6B-5 be amended to read as follows:

17 (5) Any person engaged in the business of manufacturing ~~or converting~~ new vehicles if
18 selling such vehicles to a licensed dealer holding a franchise from the original
19 manufacturer of the vehicle;

20 Section 4. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
21 follows:

22 The department may issue a motorcycle converter's license to permit the licensee to engage
23 in the business of converting new motorcycles and selling the converted motorcycles. The
24 application shall be on a form prescribed by the department, and shall include a certification that

the applicant has obtained a public liability insurance policy with a per occurrence limit of liability of not less than three hundred thousand dollars. The holder of a motorcycle converter's license is exempt from the requirements of §§ 32-6B-2, 32-6B-7, 32-6B-8, 32-6B-9, and 32-6B-10.

Section 5. That § 32-6B-13 be amended to read as follows:

32-6B-13. Upon making initial application for a dealer's license, the applicant shall pay a fee to the department. The initial fee required for each type of dealer's license is as follows:

- (1) Vehicle dealer's license--\$250;
- (2) Used vehicle dealer's license--\$250;
- (3) Motorcycle dealer's license--\$200;
- (4) Trailer dealer's license--\$75; or
- (5) Emergency vehicle dealer's license--\$250; or
- (6) Motorcycle converter's license--\$250.

All money collected pursuant to this section shall be deposited in the state motor vehicle fund.

Section 6. That § 32-6B-15 be amended to read as follows:

32-6B-15. A renewal application shall be submitted to the department annually, prior to the expiration of the old license. The applicant shall pay a fee based on the following schedule to the department:

- (1) Vehicle dealer's license--\$100;
- (2) Used vehicle dealer's license--\$100;
- (3) Motorcycle dealer's license--\$75;
- (4) Trailer dealer's license--\$50; or
- (5) Emergency vehicle dealer's license--\$100; or

1 (6) Motorcycle converter's license—\$100.

2 The renewal application shall contain the same information as required for the initial
3 application in § 32-6B-6. Any application for renewal made after the expiration date shall be
4 accompanied by a fee in the amount of the initial license fee as established in § 32-6B-13.

5 Section 7. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
6 follows:

7 No motorcycle converter licensed under the provisions of this Act may sell, transfer, or
8 convey a converted motorcycle to any person other than a vehicle dealer licensed under chapter
9 32-6B. If the sale is to a licensed dealer which has a franchise for the make of motorcycle
10 converted, the licensed dealer need not register or license the converted motorcycle and need
11 not pay the tax imposed by chapter 32-5B. If the sale is to any other licensed dealer, the
12 purchaser shall register and license the converted motorcycle as required by chapter 32-5 and
13 pay the tax imposed by chapter 32-5B.

14 Section 8. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
15 follows:

16 No motorcycle converter licensed under the provisions of this chapter may sell, transfer, or
17 convey a converted motorcycle unless it is accompanied by a supplemental manufacturer's
18 statement of origin, to be issued on a form prescribed by the department.

19 Section 9. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
20 follows:

21 The department may promulgate rules pursuant to chapter 1-26 for the administration of the
22 provisions of this Act, including rules setting forth application requirements, exemptions,
23 record-keeping requirements, and the form of the supplemental manufacturer's statement of
24 origin provided for by this Act.